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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,930	02/10/2006	Yasushi Miyajima	285627US6PCT	5384
22850	7590	09/18/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			RAJAN, KAI	
			ART UNIT	PAPER NUMBER
			3769	
			NOTIFICATION DATE	DELIVERY MODE
			09/18/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/567,930	<b>Applicant(s)</b> MIYAJIMA ET AL.	
	<b>Examiner</b> Kai Rajan	<b>Art Unit</b> 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 4, 6 - 14, 16 - 21, and 23 - 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 4, 6 - 14, 16 - 21, and 23 - 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/26/2009, 6/22/2009</u> .                                    | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

The Examiner acknowledges the reply filed May 19, 2009.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 – 4, 6 – 14, 16 – 21, and 23 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blattner et al. U.S. PGPub No. 2004/0179038 A1 in view of Hata et al. U.S. PGPub No. 2002/0109719 A1.**

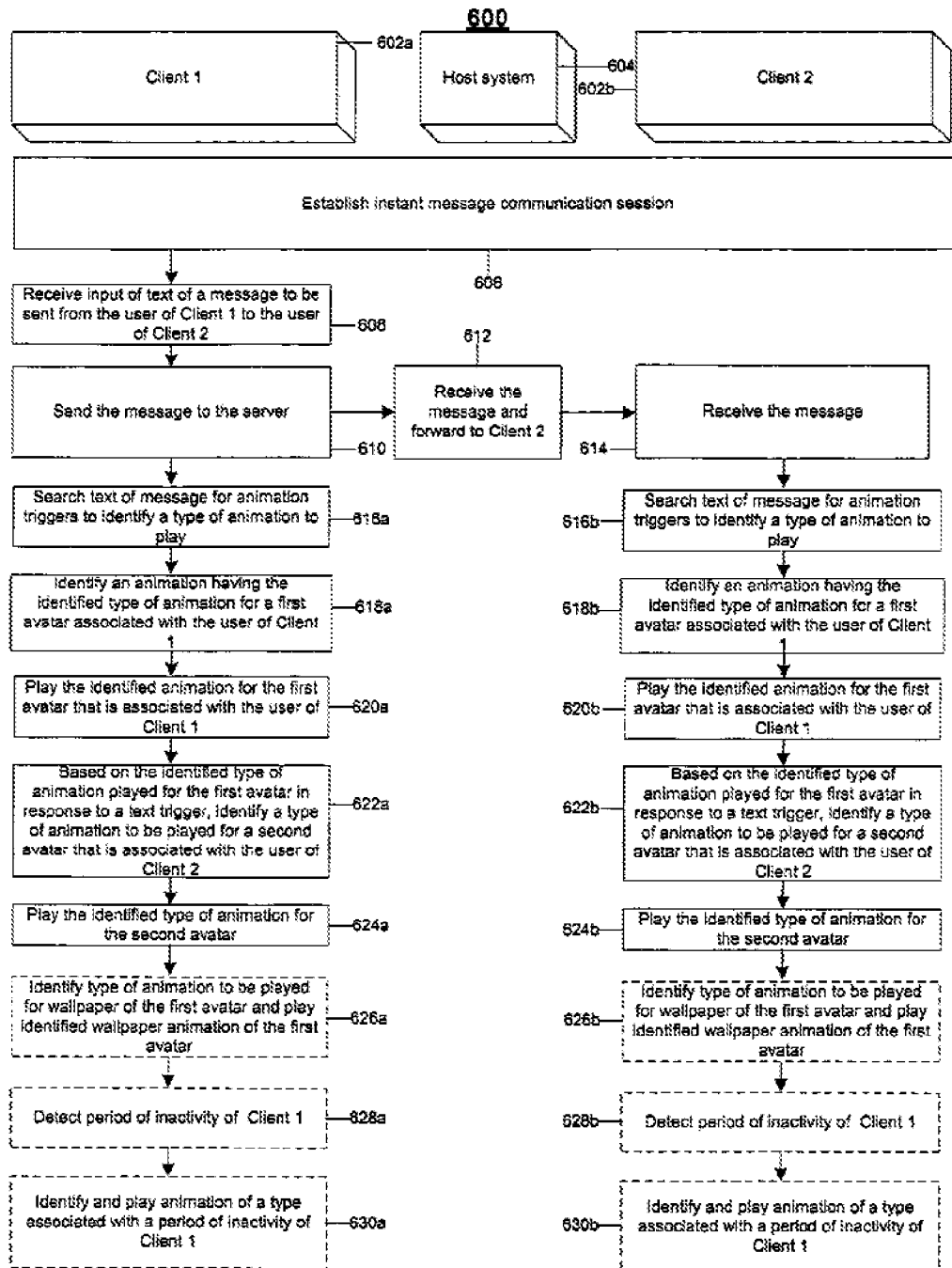


FIG. 6

Blattner et al. disclose a system and method for interaction between the avatars of at least two users. A graphical image is displayed to each of two users that represents the persons in communication (Paragraphs 0035 – 0037). The avatars display emotions associated with the

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content of messages exchanged between the users (Paragraphs 0037 – 0039). Each avatar also reacts to the emotions of the other avatar (Paragraphs 0041 – 0042). In addition to displaying emotional qualities of each user, the avatars also display images or animations representing environmental and geographical conditions (Paragraphs 0044, 0048). The data of both users is processed substantially concurrently to display the emotions and environmental conditions (Paragraph 0075). The two avatars are displayed simultaneously, and since one avatar is reactive to the data or emotion of the other, the image displays an "interaction" (see Figure 6). Messages may be communicated via text or by synthesized speech, where the avatar is animated to appear to be speaking (Paragraphs 0068 – 0069). The animations displayed in the avatars are determined based on preprogrammed triggers that correlate to emotions (Paragraphs 0169 – 0172, see also tables 2 and 3). Thus, the animations are entered by a user via manual input.

Blattner et al. fail to disclose inputting biological data to determine the emotions of a user. However, Hata et al. a reference in an analogous art of personal avatars and messaging disclose a system and method comprising multiple users having avatars in a virtual space environment (Hata et al. paragraphs 0007 – 0010). The avatars display expressions corresponding to the user's conditions such as emotions (Hata et al. paragraphs 0007 – 0015). Hata et al. further teaches that the displayed expressions and emotions are preprogrammed correlations in the system, and that that programming may be performed by manual user input or by inputting bio - data via a sensor for judging the emotions of the user (Hata et al. paragraph 0087). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the manual input of emotion data of Blattner et al. with the biological data

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input of Hata et al., since Hata et al. teaches the two input methods as interchangeable (Hata et al. paragraph 0087).

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Applicant is invited to request an interview to discuss suggestions to overcome the prior art and advance prosecution.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/  
Examiner, Art Unit 3769

/Michael C. Astorino/  
Primary Examiner, Art Unit 3769

September 14, 2009